

Assembly Bill No. 1634

Passed the Assembly September 5, 2003

Chief Clerk of the Assembly

Passed the Senate September 2, 2003

Secretary of the Senate

This bill was received by the Governor this _____ day of
_____, 2003, at _____ o'clock __M.

Private Secretary of the Governor

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CHAPTER _____

An act relating to public lands.

LEGISLATIVE COUNSEL'S DIGEST

AB 1634, Keene. Public lands: transfer.

Existing law grants the lands formerly comprising General Bidwell State Park to the County of Butte, subject to the conditions, restrictions, and limitations in the indenture by which the land was conveyed to the state, and subject to further conditions that the land be improved and used by the county as a public park, that the county not transfer the land or any part thereof, and that mineral rights in the land be excepted and reserved to the state.

Existing law authorizes the county to grant a portion of the land to the City of Chico, subject to the conditions, restrictions, and limitations specified above, except the requirement to improve the land as a public park.

This bill would authorize the city to sell or exchange portions of this land under certain specified circumstances and free of conditions, restrictions, or limitations imposed upon the city and its successors under specified statutes. The bill would require the proceeds of a sale or conveyance of land to be deposited into the city's park fund.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares the following:

(a) The land formerly comprising General Bidwell State Park and granted by the state to Butte County, including a portion subsequently granted by Butte County to the City of Chico, has historically functioned and now functions as a natural floodway known as Lindo Channel.

(b) Owners of certain private lands adjoining the channel will suffer hardship if the interests of the City of Chico in the channel, as established in current law, are strictly enforced as to structures or uses on those private lands that abut or encroach onto Lindo Channel.



(c) It is the intent of the Legislature to authorize the City of Chico to sell, convey, or exchange portions of Lindo Channel under certain circumstances and free of conditions, restrictions, or limitations imposed under the statutes granting the channel to the county and authorizing the grant of the channel to the city.

SEC. 2. (a) The City of Chico may sell, convey, or exchange at fair market value, all of the right, title, and interest held by the city in the land known as Lindo Channel, granted to the County of Butte and its successors by Chapter 73 of the Statutes of 1950, First Extraordinary Session, and to the city by the county under Chapter 128 of the Statutes of 1986, if both of the following occur:

(1) The owner of land adjoining the channel and the city manager and city attorney of the City of Chico agree that one or more of the following circumstances exist on that land and that the sale, conveyance, or exchange is the best manner in which to resolve the matter:

(A) An existing building or other improvement abuts or encroaches onto the channel, and that building or improvement was constructed or installed in good faith, without the purpose of utilizing channel land for private benefit, and removal or relocation of the building or improvement would impose an unreasonable burden on the owner, and access to the private land adjoining the channel by way of passage over channel property is necessary for, or convenient to, the safe use of the land.

(B) An existing building or other improvement encroaches onto the channel, and that building or improvement was constructed or installed in good faith, without the purpose of utilizing channel land for private benefit, and removal or relocation of the building or improvement would impose an unreasonable burden on the owner, and the sale, conveyance, or exchange will not reduce or eliminate public access to the channel at any point designated by the city for that access.

(2) The City Council of Chico, by resolution adopted by the affirmative vote of at least five members of the city council, authorizes the sale, conveyance, or exchange. Before the vote, the Bidwell Park and Playground Commission may review each proposal to sell, convey, or exchange the land and submit written comments to the city council for its consideration.

(b) (1) The amount of land sold or conveyed to the owner of land adjoining Lindo Channel pursuant to subdivision (a) may not



exceed the amount necessary to reasonably alleviate the hardship to the owner resulting from the building or improvement abutting or encroaching onto the channel.

(2) The proceeds of a sale or conveyance of land pursuant to subdivision (a) shall be deposited into the city's park fund.

(c) The amount of land exchanged by the city pursuant to subdivision (a) may include land to which there is no reasonable public access, provided the land received by the city is of equal or greater fair market value to that exchanged.

(d) Land sold, conveyed, or exchanged by the City of Chico pursuant to subdivision (a) shall thereafter be:

(1) Free of all conditions, restrictions, and limitations imposed upon the County of Butte and its successors by Chapter 73 of the Statutes of 1950, First Extraordinary Session, and upon the city and its successors under Chapter 128 of the Statutes of 1986.

(2) Deemed to be merged with and part of the adjoining land of the owner who received it.

(e) It is the intent of the Legislature that any sale, conveyance, or exchange pursuant to this section be in accordance with the conditions, restrictions, and limitations contained in the indenture described in Section 1 of Chapter 73 of the Statutes of 1950, First Extraordinary Session, whereby said lands were conveyed to the state. If it is determined by a court of competent jurisdiction that the sale, conveyance, or exchange pursuant to this section would constitute a breach of that indenture, then the provisions of this section shall be inoperative and ineffective as a transfer of title or right of possession as of the effective date of the act enacting this section.



Approved _____, 2003

Governor

